

Exhibit 96

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1 IN THE UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF VIRGINIA
3 NORFOLK DIVISION
4 No. 2:18cv530

5 CSX TRANSPORTATION, INC.,
6 individually and on behalf
7 of NORFOLK & PORTSMOUTH BELT
8 LINE RAILROAD COMPANY,

9 Plaintiff,

10 v.

11 NORFOLK SOUTHERN RAILWAY COMPANY,
12 et al.,

13 Defendants.

14 _____ /
15 Remote Proceedings

16 December 8, 2020

17 9:47 a.m. - 6:38 p.m.

18 VIDEO DEPOSITION OF JAY STRONGOSKY
19 (via Teleconference)
20 (Highly Confidential)

21 Taken before SUZANNE VITALE, R.P.R., F.P.R.
22 and Notary Public for the State of Florida at Large,
23 pursuant to Notice of Taking Deposition filed in the
24 above cause.

25 Job No. CS4358779

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1 difference is we pay for half of that dray in
2 Virginia to move from our Portsmouth terminal to the
3 Norfolk International Terminal. In Charleston -- in
4 Charleston, I don't -- I don't know who pays those
5 bills.

6 Q. Okay. Mr. Strongosky, for your purposes
7 in your role, is there a difference between having
8 access to a port and offering an on-dock service at
9 that port or terminal?

10 A. In my role, customers look at having
11 on-dock rail access as the preferred access for the
12 movement of their cargo.

13 Q. And what is your understanding of on-dock
14 rail access, what that term means?

15 A. Meaning a box goes directly from a marine
16 terminal to a railcar or a railcar directly to the
17 marine terminal.

18 Q. And by "directly," you mean it does not
19 move via drayage in between those two points; is
20 that right?

21 A. That's correct.

22 Q. And just to be clear, you earlier
23 mentioned, Mr. Strongosky, that in Virginia you
24 pay -- "you" being CSX -- pays half the cost of the
25 dray from Norfolk International Terminal to CSX's

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1 railroad to provide services to West Coast-located
2 ports or terminals; is that correct?

3 A. We offer interchange services through
4 West Coast railways or Canadian railways, for that
5 matter, who subsequently serve the ports along the
6 Pacific Coast.

7 MR. THORNBURGH: I think this would be a
8 good time for a break. If that works, we can
9 go off the record.

10 THE VIDEOGRAPHER: The time is 10:48 a.m.
11 We're off the record.

12 (Short recess taken.)

13 THE VIDEOGRAPHER: The time is 11:01 a.m.
14 We are back on the record.

15 BY MR. THORNBURGH:

16 Q. Welcome back, Mr. Strongosky.

17 Mr. Strongosky, does CSX -- does CSX have
18 a preferred port for transporting international
19 intermodal containers?

20 A. No.

21 Q. Why not?

22 A. We try to remain -- we remain port neutral
23 in everything that we do. We do not control what
24 ports vessels call upon -- call on or discharge or
25 load from. So as a result, we do not try to develop

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1 a preferred port solutions. We are often --

2 Q. At some -- go ahead. I'm sorry.

3 A. Oh, we are very consistent in our
4 messaging to customers and ports that we are port
5 neutral.

6 Q. Fair enough.

7 With that said, some offer better margins
8 for CSX than others; is that fair to say?

9 A. Across the system, yes.

10 Q. When you say "across the system," what do
11 you mean by that?

12 A. Well, including all ports that we
13 represent as ports that we serve.

14 Q. Mr. Strongosky, I'd like to ask you about
15 the term -- the terms "single stack" and "double
16 stack."

17 Do you know what those terms mean?

18 A. Yes.

19 Q. Can you explain their relevance and what
20 they mean in your industry?

21 A. Sure. Creating double-stack efficiencies,
22 meaning the ability to load two containers, one on
23 top of the other, while moving rail transport, while
24 moving via rail, is more efficient and uses less
25 railcar capacity than a lane that would be single

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1 with customers?

2 A. No. I've acknowledged it if they've
3 asked.

4 Q. What -- what did -- do you recall any
5 specifics about what customers have asked about with
6 regards to this litigation?

7 A. Very -- no, no specifics have ever been
8 asked.

9 Q. Okay. I'd like to talk a little bit about
10 the pricing and bidding process for customers of CSX
11 for international intermodal container
12 transportation.

13 Can you explain to me a bit about how CSX
14 acquires new business for international intermodal
15 container services?

16 A. So most often a steamship line will
17 present to us an opportunity to bid on their rail
18 transportation portfolio in the form of RFP, request
19 for proposal. And embedded in that is the list of
20 service points that they request we serve for them
21 to consider buying a CSX solution.

22 Q. So usually -- if I understand you
23 correctly, Mr. Strongosky, usually you bid on a
24 portfolio of a customer's business, not a specific
25 lane; is that correct?

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1 A. Yes.

2 Q. And when CSX bids on a business, do you
3 know what volume will go through -- go through each
4 lane for the duration of the contract?

5 A. Can you say that again, please?

6 Q. When CSX bids on a customer's business,
7 does the company know what volume of intermodal
8 traffic will go through each lane that is included
9 in the contract proposal?

10 A. Yes. In most occasions, customers present
11 us with a file with their rail transportation volume
12 associated with each -- with each service point.

13 Q. And in the case of ports with more than
14 one terminal, is that specific to a terminal or to
15 just a port?

16 A. It depends on the customer. Some
17 customers specifically lay out the marine terminal.
18 Some others will just use as more of a geography.

19 Q. Does CSX ever include volume requirements
20 in its contracts?

21 A. Yes.

22 Q. Can you explain to me how those volume
23 requirements work?

24 A. So as part of our contract, we request
25 most often a combination of a specific minimum

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1 to capacity options and reduce transportation costs.
2 Shippers moving full truckload freight 500 miles or
3 more exclusively via truck are likely missing out on
4 the capacity and cost-savings benefits of intermodal
5 rail."

6 Do you see that?

7 A. Yes.

8 Q. And, Mr. Strongosky, I want to ask if you,
9 in particular, agree with that second sentence?

10 A. Yeah, I believe if you're a shipper of BCO
11 who's purchasing transportation via truck and it's
12 500 miles or longer, that there's probably an
13 opportunity to utilize intermodal transportation.
14 That would be appealing to you, whether it be for
15 economics or capacity.

16 Q. And so doesn't this sentence indicate,
17 Mr. Strongosky, that rail shippers like CSX are most
18 competitive with trucks for intermodal movement of
19 transportation -- excuse me -- of intermodal
20 movement of intermodal carriers of 500 miles or
21 more?

22 A. Yes. Movement via truck with 500 miles or
23 more, there's a better likelihood, we believe, that
24 the intermodal option could be more attractive.

25 Q. And if you turn to the second page of the